

REMARKS

Claims 1 – 85 were previously pending in this application. By this amendment, Applicant is canceling claims 4, 81, and 82 without prejudice or disclaimer. Claims 1 – 3, 5, 8, 9, 26, 70, 72 – 80, 83, and 85 have been amended. As a result claims 1 – 3, 5 – 80, and 83 – 85 are pending for examination with claims 1, 9, 70, and 79 being independent claims. No new matter has been added. Support for the amendments may be found, for example, from page 21, line 18 to page 22, line 30.

Claim Objections

The Office Action objected to claim 1 because the Examiner suggests that the phrase "...the at least one game card..." is grammatically incorrect and should be corrected. Claim 1 has been amended and Applicant respectfully submits that claim 1 as amended is grammatically correct and requests that the objection be withdrawn. Applicant notes that the word "the" in the phrase "the at least one game card" provides antecedent basis for the phrase "at least one game card" that appears earlier in claim 1.

Claim 4 is also objected to because the Examiner asserts it is grammatically incorrect. Without acceding to the appropriateness of the objection, Applicant has canceled claim 4 without prejudice or disclaimer, thus mooted the objection.

Claim 26 is objected to because the word "kiosk" is appears twice in the claim. Claim 26 has been amended so that the word "kiosk" appears only once. Applicant therefore respectfully submits that this objection be withdrawn.

Rejection under 35 U.S.C. §101

The Office Action rejected claims 1 – 8 and 79 – 85 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Specifically, these claims are rejected because the Examiner suggests that the act of a player making a determination is non-statutory subject matter. Without acceding to the appropriateness of this rejection, Applicant has amended claims 1 and 79, and canceled without prejudice claims 4, 81, and 82. Applicant

respectfully submits that claims 1 – 8 and 79 – 85 recite statutory subject matter and overcome this rejection. Accordingly, withdrawal of the rejection of claims 1 – 8 and 79 – 85 under 35 U.S.C. §101 is respectfully requested.

Rejections of claims 1 – 8 Under 35 U.S.C. §103

The Office Action rejected claims 1 – 8 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2004/0059445 to Moore (hereinafter Moore) in view of U.S. Patent No. 5,857,911 to Fioretti (hereinafter Fioretti) and U.S. Patent No. 6,565,435 to Metke (hereinafter Metke).

Independent claim 1 recites in part:

at least one game card having a pattern, wherein the pattern includes a plurality of rows and a plurality of columns, at least one row or at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot.

This rejection asserts that Moore discloses all of the elements of claim 1. (Office Action, pages 3 – 5.) Moore relates to a game display and method for a computer based game of speed bingo in a fixed venue. (Paragraph 35.) More specifically, each bingo card typically has three numbered spaces that can be arranged in a column. (Paragraph 34.) As the game proceeds, the game operator calls numbers, and when a number corresponding to one of the three numbered spaces of a player's game card is called, there is a match and the player will cover that space with a coin or chip. (Paragraph 34.) A player is declared a winner when all three numbers of the player's cards match the called numbers. (Paragraph 34.) Moore thus discloses a bingo game where each card has a column with three spaces, and each of these three spaces is occupied by a number. A player wins when the three numbers residing in these three spaces are called. (Paragraphs 34 and 36.)

Applicant respectfully submits that Moore does not disclose at least the above quoted claim elements. The card in Moore requires that every space be occupied by a number. (Paragraphs 34 – 36.) As stated in Moore, “[t]he game display and method of the present invention is shown and described in the context of a computer-based game of ‘speed’ bingo in a fixed venue.” (Paragraph 35.) Moore continues to state that “in the case of speed bingo... each

participant marks his or her card or cards with one of three coins or chips (one for each space) when a matched number is called. When at least one card in play achieves a match for all three numbers, the cardholder is declared the winner. (Paragraph 34.) Moore further requires that sectors in a participant window may “display the identified participant’s card or cards, by specifically displaying three numbers arranged in a vertical column for each such card.” (Paragraph 36.)

It is mandatory in Moore that every space on a card be occupied by a number because it is impossible to win the game unless each space in a three space column is covered by a coin or chip. As Moore states, “the game proceeds by the operator calling randomly selected numbers, each participant marks his or her card or cards with one of three coins or chips (one for each space) when a matched number is called. When at least one card in play achieves a match for all three numbers, the cardholder is declared the winner.” (Paragraph 34, parenthesis in original.)

Moore notes in passing that “[i]n traditional bingo... a bingo card includes twenty five spaces arranged in five rows and five columns (wherein twenty four of the spaces are numbered and one is left blank).” (Paragraph 33. The blank spot referred to in traditional bingo is a wildcard spot that is automatically covered with a coin or chip.) This too does not disclose a pattern that “includes a plurality of rows and a plurality of columns, at least one row or at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot” as recited in claim 1. The number of spaces or their orientation on a card is unrelated to what contained in the spaces.

Claim 1 recites “at least one game card pattern, wherein the pattern includes a plurality of rows and a plurality of columns, at least one row or at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot.” To play the game described in Moore, a card has a single column with three spaces, and every space must contain a number. Moore does not disclose “at least one row or at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot” as recited in Applicant’s claim 1.

Moore is the only document cited in the Office Action with regard to the rejection of claim 1. MPEP 2131 instructs that to anticipate a claim, the reference must teach every element of the claim. In order to meet this exacting standard, each and every element as set forth in the

claim must be found, either expressly or inherently described, in a single prior art reference. Applicants respectfully submit that Moore does not disclose the above-quoted claim elements.

Although the Office Action cites neither Fioretti nor Metke with respect to claim 1, Applicant notes that both of these cited documents fail to cure the infirmities of Moore. Fioretti discloses a method and apparatus to enable bingo to be played in real time at locations that are remote from the location where the numbers used to play the game are selected. (Column 6, lines 14 – 18.) Metke discloses a method for authorizing the cost free play of an amusement game. (Column 1, lines 50 – 52.) Neither Fioretti nor Metke disclose a “game card having a pattern, wherein the pattern includes a plurality of rows and a plurality of columns, at least one row or at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot” as recited in claim 1.

MPEP 2143.03 instructs that all limitations of a claim must be considered and given weight. Because neither Moore nor Fioretti nor Metke disclose “game card having a pattern [that] includes a plurality of rows and a plurality of columns, at least one row or at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot” as recited in claim 1, no combination of these documents can possibly form a basis for rejecting of this claim, or claims 2, 3, and 5 – 8 that depend there from, under 35 U.S.C. §103(a). Accordingly, withdrawal of this rejection is respectfully requested.

Rejections of claims 9 – 85 Under 35 U.S.C. §103

The Office Action rejected claims 9 – 85 under 35 U.S.C. §103(a) as being unpatentable over Moore in view of Metke and U.S. Publication No. 2004/0077422 to Bryant (hereinafter Bryant) and U.S. Publication No. 2002/0042297 to Torango (hereinafter Torango).

Independent claim 9 recites in part:

a plurality of cells arranged in a pattern... the pattern including a plurality of rows and a plurality of columns, each row or each column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot.

Applicant notes that the Office Action does not cite any documents when rejecting claim 9. The Office Action states, without providing support, that claim 9 is “[o]bvious in Bingo.” (See Office Action at page 8.) MPEP 2143.03A instructs that official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known. The MPEP 2143.03A states that “[i]t is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which the rejection was based.”

The Applicant respectfully traverses this apparent finding of official notice under MPEP 2143C. Specifically, Applicant respectfully submits that at least the above quoted passage of claim 9 is not considered to be common knowledge or well-known in the art. Neither Moore nor Metke, as discussed above, disclose a pattern “including a plurality of rows and a plurality of columns, each row or each column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot” as recited in claim 9. The pattern as recited in claim 9 is not capable of instant and unquestionable demonstration as being well known in the art. If, respectfully, the Examiner is relying on personal knowledge to support a finding of what is known in the art, the Applicant requests an affidavit or declaration setting forth specific factual statements and an explanation to support the finding, so that the Applicant may traverse with particularity the factual statements. (MPEP 2143C, see also 37 CFR 1.104(d)(2).)

Neither Moore nor Metke disclose the above quoted elements of claim 9, as discussed above, and neither Bryant nor Torango cure the infirmities of Moore and Metke. Bryant discloses gaming machines such as slot machines that operate in a normal mode and in a loyalty-enhanced mode where players can accumulate loyalty points. (Bryant, paragraph 5.) Torango discloses progressive gaming systems and methods where players can accept wagers in different currencies or in different denominations so that the players can share in the possibility of winning common progressive prizes. (Torango, paragraph 28.) Like Moore and Metke, neither Bryant nor Torango disclose “a plurality of cells arranged in a pattern... the pattern including a plurality of rows and a plurality of columns, each row or each column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot” as recited in independent claim 9.

MPEP 2143.03 instructs that a claim cannot be obvious when an element of the claim is entirely absent from the prior art. Because none of Moore, Metke, Bryant, or Torango disclose “a plurality of cells arranged in a pattern... the pattern including a plurality of rows and a plurality of columns, each row or each column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot” as recited in claim 9, no combination of these documents can possibly form a basis for rejecting of this claim, or claims 10 – 69 that depend there from, under 35 U.S.C. §103(a). Accordingly, withdrawal of this rejection is respectfully requested.

Independent claim 70 recites in part:

the pattern including a plurality of rows and a plurality of columns, at least one row and at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot.

As discussed above, no combination of Moore, Metke, Bryant, or Torango disclose a pattern “including a plurality of rows and a plurality of columns, at least one row and at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot” as recited in claim 70. Applicant therefore respectfully submits that claim 70 is allowable and requests withdrawal of this rejection as it pertains to independent claim 70 and dependent claims 71 – 78 that depend therefrom.

Independent claim 79 recites in part:

the pattern including a plurality of rows and a plurality of columns, at least one row or at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot.

As discussed above, no combination of Moore, Metke, Bryant, or Torango disclose a pattern “including a plurality of rows and a plurality of columns, at least one row or at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot” as recited in claim 79. Applicant therefore respectfully submits that claim 79 is allowable and requests withdrawal of this rejection as it pertains to independent claim 79 and dependent claims 80 and 83 – 85 that depend therefrom.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should be in condition for allowance, and a notice to this effect is respectfully requested. If the Examiner believes, after this response, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an accompanying payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. No. R0586-701010.

Respectfully submitted,
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